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CORRESPONDENCE MEMORANDUM

DATE: August 1, 2013
TO: Group Insurance Board
FROM: David H. Nispel, General Counsel
SUBJECT: Status of Pending Legal Cases

This memo is for informational purposes only. No Board action is required.

This memorandum presents the status of pending or recently settled legal cases involving insurance issues and the Department of Employee Trust Funds (ETF) and the Group Insurance Board (GIB). In order to maintain Wisconsin Retirement System (WRS) member confidentiality, the names of the parties and case numbers are not identified in this memorandum.

The purpose of this memorandum is to inform you of litigation in which the GIB and ETF are parties or are otherwise involved, not to provide any legal advice concerning the cases listed here. Each of the cases is being handled by either an assistant attorney general from the Department of Justice (DOJ) or a private attorney retained by Wisconsin Physicians Service (WPS). If you have any questions about a particular case, I will be able to provide you with the name of the attorney handling the case.

As of August 1, 2013, there are eight cases, which can be divided into the following categories:

Circuit Court Cases (3)

ETF (GIB not a party) ..... 2
GIB and ETF..... 1

Subrogation Cases Handled by Private Attorney (5)

(per Article XII, Section H, Administrative Service Agreement with WPS)
GIB ..... 5

Reviewed and approved by Robert J. Marchant, Deputy Secretary
[Signature] Electronically Signed 8/6/13

Table with 3 columns: Board, Mtg Date, Item #. Row 1: GIB, 8.27.13, 8E

## **CIRCUIT COURT CASES**

### **Case No. 1:**

Issue – Appellant changed health insurance plans but argues the initial health plan is responsible for services because their preauthorization approval should have occurred prior to termination of coverage.

Summary – ETF determined that the initial health plan correctly concluded appellant was ineligible for benefits after he switched his insurance coverage to another plan. Payment for service received prior to termination was paid by the initial health plan, but coverage for a second requested service that was not received prior to termination was denied. GIB affirmed ETF's determination on November 13, 2012.

Status – An appeal was filed in Dane County Circuit Court on March 25, 2013. A scheduling conference is set for August 15, 2013.

Attorney – DOJ attorney.

### **Case No. 2:**

Issue – Which party is entitled under the applicable law to the life insurance and retirement death benefits of the deceased WRS member?

Summary – The wife and sister of the deceased are involved in litigation to determine who is legally entitled to the life insurance and retirement death benefits. ETF was named as a defendant in an effort to prevent the death benefits from being paid. ETF informed the parties and the court that no payments will be made until the case is resolved.

Status – The parties have not resolved the dispute. ETF received interrogatories from the defendant's attorney on July 25, 2013, and responses are due August 24, 2013. A trial is scheduled for October 15-17, 2013.

Attorney – DOJ attorney.

### **Case No. 3:**

Issue – ETF provided income continuation insurance benefits following appellant's involvement in an automobile accident and seeks repayment for those payments made.

Summary – ETF was named an involuntary plaintiff in a Winnebago County Circuit Court case in which the plaintiff seeks damages for personal injuries sustained in the accident and a determination of ETF's subrogation interest.

Status of Pending Legal Cases

August 1, 2013

Page 3

Status – A jury trial is scheduled for February 10-12, 2014

Attorney – DOJ attorney.

### **SUBROGATION CASES**

WPS has retained private counsel to handle these cases. No ETF or DOJ attorney is involved in these cases. There are five cases pending in which GIB or ETF has a subrogation interest in an action filed in circuit court by a WRS member because ETF provided benefits to that member following a personal injury.

I will be available at the Board meeting to answer any questions.